IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A. O. NO. 547 OF 2006
with
Civil application No. 706 of 2006

Kailash J. Worlikar ... Appellant.
V/S
The Municipal Corporation of Greater
Bombay & ors. ... Respondents

Mr. P. M. Havnur for the appellant.
Mr. Y. E. Mooman for respondent no.2.

CORAM: D. G. KARNIK **J.**

DATE: 27th September 2006

P.C.:

1. Heard. This appeal is directed against the order dated 16th June 2006 passed by the City Civil Court, Mumbai, rejecting ad interim relief.
2. The appellant filed a suit against the respondent bearing L. C. Suit No. 2616 of 2005. In the suit the appellant took out a motion No. 1693 of 2006 for injunction restraining the Municipal Corporation from implementing the notice dated 26th May 2005 issued under section 354-A of the Bombay Municipal Corporation Act. Ad interim relief was granted by the court. Thereafter the suit and the motion came up before

the court on 16th June 2006, wherein the court noted that the appellant had not carried out the amendment as prayed till today, for more than 2 months. The court felt that there was no reason for granting extension to carry out the amendment. However, it granted the time to avoid multiplicity of the proceedings but vacated ad interim relief as it thought that the appellant is benefited in an unjust way. That order is impugned in this appeal.

3. Learned counsel for the appellant submitted that the appellant has since carried out the amendment and the motion would be heard on merits. In the circumstances he sought leave to withdraw the appeal. Appeal is disposed of as withdrawn.

4. In view of the withdrawal of the appeal, civil application does not survive and is disposed of.

(D.G. KARNIK J.)